

Company. Unfortunately, little attention has been paid to this important trial brought by the Department of Justice in January 1887 United States v. Bell Telephone Company and Alexander Graham Bell. This lawsuit was instituted by the federal government against Bell to strip him of his patents for fraud and misrepresentation. Appealed on demurrer to the Supreme Court, it was determined by the High Court that a viable and meritorious contention against Bell had been raised, and the case was remanded for trial. The record of the trial proceeding was never printed and now resides in storage with the National Archives and Records Administration.

Interestingly, the hearings before the Interior Secretary coincided with a lawsuit brought by the Bell Company against Mr. Meucci for patent infringement. Sadly, none of proceedings at Interior were made available during the patent infringement trial.

MUNICIPAL GAS SUPPLY ACT OF  
2001

**HON. MAC COLLINS**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 2001

Mr. COLLINS. Mr. Speaker, I am introducing legislation today to correct a problem created by the IRS that has interfered with the ability of municipal gas systems to enter into long-term prepaid contracts to obtain natural gas for their citizens. I am joined today by 20 of my colleagues who share my great concern for this issue.

The approximately 1,000 publicly owned gas distribution systems in the United States comprise about 5 percent of the market. They are primarily located in small towns and rural communities. In the last 15 years there have been major changes in the natural gas industry that have increased their exposure to the great uncertainties of the natural gas market. In 1985 the Federal Energy Regulatory Commission "FERC" began deregulating the delivery of natural gas. In 1993 FERC began requiring that pipelines "unbundle" their services to customers. This meant that municipal gas systems could no longer purchase natural gas supplies on a reliable and regulated basis from interstate natural gas pipelines. This fundamental change in the marketplace meant that for the first time municipal gas systems had to acquire reliable gas supplies and transport on their own in a deregulated marketplace. In response, many formed joint action agencies, as contemplated in the FERC restructuring, to acquire and manage the delivery of gas.

In today's natural gas markets, long-term prepaid supply arrangements are the most reliable means for municipal gas systems to obtain an assured supply of natural gas. To fund prepaid supply contracts, the municipality or the joint action agency issues tax-exempt bonds. These contracts contain stiff penalties if the supplier fails to perform making this the most reliable gas supply that municipal gas agencies can purchase. Until August of 1999, joint action agencies entered into prepayment supply contracts with gas suppliers to obtain a long-term (e.g., 10-year) supply of gas.

In August 1999, the IRS published a request for comment that has effectively prevented municipal gas systems from using their tax-exempt borrowing authority to fund the purchase of long-term, prepaid supplies of natural gas for their citizens. The IRS questioned whether the purchase of a commodity, such as natural gas, under a prepaid contract financed by tax-exempt bonds has a principal purpose of earning an investment return, in which case the bonds would run afoul of the arbitrage rules of the Internal Revenue Code. The IRS has not issued any guidance following the August 1999 request for comment.

Under the Internal Revenue Code, tax-exempt bonds may not be used to raise proceeds that are then used to acquire "investment-type property" having a higher yield than the bonds. Governmental bonds that violate this arbitrage restriction do not qualify for tax-exempt status. Treasury regulations provide that investment-type property includes certain prepayments for property or services "if a principal purpose for prepaying is to receive an investment return." But, "a prepayment does not give rise to investment-type property if . . . the prepayment is made for a substantial business purpose other than investment return and the issuer has no commercially reasonable alternative to the prepayment. . . ." A very similar standard is used to determine whether a prepayment transaction is treated as a loan for purposes of the private loan financing test. If a transaction is considered a private loan financing, the bonds are treated as private activity bonds. Although municipal gas systems clearly have a "substantial business purpose" for entering into prepayment transactions and "no commercially reasonable alternative," the failure of the IRS to issue any guidance following its August 1999 request for comment has eliminated the most efficient tool available to public gas systems to secure long term supplies of natural gas.

The IRS has essentially acted against municipal gas systems without going through any of the administrative procedures required for agency action. It has not issued any regulations, ruling or other guidance; it has simply put out a request for comment that has effectively prevented the issuance of any tax-exempt obligations to fund prepaid contracts for natural gas.

The legislation we are introducing today would clarify the law, both with respect to the arbitrage rules and the private loan financing rules, to remove the confusion created by the IRS.

This country is now facing an energy crisis. All across the nation the price of natural gas has been at record levels as purchasers have scrambled to obtain an assured supply. Meanwhile, by requesting comment and then failing to act, the IRS has prevented small communities from using their tax-exempt borrowing authority to obtain a long-term, assured supply of competitively priced natural gas. This problem must be addressed as part of comprehensive energy legislation that Congress will soon consider.

TRIBUTE TO CANDICE A. NEAL OF  
EVA, ALABAMA

**HON. ROBERT E. (BUD) CRAMER, JR.**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 2001

Mr. CRAMER. Mr. Speaker, I submit into the CONGRESSIONAL RECORD the following essay written by a bright young lady from North Alabama, Miss Candice Neal. The essay titled "The Constitution: A Fantastic Journey" was recently selected as the winner of the 2001 American Legion National High School Oratorical Contest. I would like to submit her patriotic words for the RECORD.

"THE CONSTITUTION: A FANTASTIC JOURNEY"

Attention time travelers this is your final boarding call for flight U.S. 1-7-8-7. Congratulations you have selected one of our more popular destinations, The Beginning of American Government. Today, you will experience some of the more dramatic events in our nation's history. Flight 1-7-8-7 is a non-stop flight, back in time, to the creation of the U.S. Constitution. The flight crew has requested that you remain seated with your personal liberties securely fastened. When the captain is certain that you are not in danger she will illuminate the "ratification light" indicating that you may move about the cabin freely. As we prepare for take-off I will remind you that this is a non-smoking flight, and in keeping with today's destination, federal law prohibits the violation of anyone's inalienable rights.

Please look in the seat back pockets in front of you, to review today's agenda. We begin our journey with a basic knowledge and understanding of the Constitution and how it was created. In the second phase of this adventure, we will learn how to responsibly engage in our constitutional rights. And, finally you will discover what it means to become a part of history, by participating in this government of the people, by the people, and for the people.

We've been cleared for takeoff, so please direct your attention to the windows on the left side of the cabin. You will note instances in recent history, in which rulers and dictators have taken away people's personal freedoms. There's Kosovo, Bosnia and Tianenmen Square.

Make sure your seat belts are securely fastened. We are about to enter a turbulent time in American History—the defense of democracy—There's Desert Storm, now Pearl Harbor and our final stop, the Revolutionary War. This is where our journey begins. . . .

What you might not realize is that the Constitution is actually our third form of government. It was here during the Revolutionary War when our fight for freedom began. The American Colonies were first forced to live under the reign of England. From 1775 until 1783 the American Colonies fought for their independence. Fast forward to 1781. You'll notice that even before the fighting was over, our second form of government, the Articles of Confederation, was adopted. It is obvious to us now, as time travelers, that these young colonies would require much more structure than the Articles of Confederation had to offer. Here we see the lack of a central government to levy taxes and enforce laws. We see states minting their own currency and imposing tariffs on out-of-state goods. We see economic depression and political wandering.

We now move forward to 1787, please do not disturb the 55 men who are meeting in this old Philadelphia state house. They are statesmen, patriots, each with their own ideas about how this new government should be organized. Some of them are states' rights advocates. Many of them are federalists. But you will notice that one man stands out in the crowd. His name? James Madison. And he is presenting the Virginia Plan to his fellow delegates. They will soon refer to the plan as a "political masterstroke," and in the next 5 months, it will serve as the foundation of our Constitution. By 1789, all the states had ratified and approved this new form of government. This unusual document was the first written, national constitutional since ancient times. It was also the first to set up what was called the federal system. Under this system, sovereign power comes from the people, for the good of the people.

The Founders attempted to create a form of government that would be stable, but would also allow for change. You see, in a sense, the Founding Fathers were time travelers too; they were looking to the future, planning ahead, and forming a basic framework to endure for all time. It is a document written for "we the people" and that means that "we the people" have a job to do!

Fast forward to April 1999. An issue of the USA Today Newsview+, states that one of the first things that come to mind when Americans are asked what they think about the United States and its government is "freedom". Yet according to current public opinion research fewer than 15% of Americans can name the freedom of the press and one of the rights protected under the First Amendment. And little more than half of Americans know that there are three forms of government. You see, time travelers, with freedom also comes responsibility—the responsibility to understand and defend the Constitution.

James Madison once said, "The people who are the authors of this blessing must also be its guardians." Today more than ever before we witness people and organizations testing the bounds of their Constitutional rights. From tabloids that slander high profile figures, to hate groups who use their misunderstanding of freedom to infringe upon other's inalienable rights, we are constantly called upon to defend and uphold our constitution. As such, we must be able to use our privileges responsibly. In words of Benjamin Franklin, "we have a Republic, only if we can keep it!"

And now, as we make our way back to the, 21st Century, I will remind you that this flight is interactive—meaning it is not enough to simply understand our constitution and to use our rights responsibly. Clearly, this travel back in time has taught us that our duties as citizens also carry the obligation to participate in our government.

Long after our Founding Fathers penned the last words of the Constitution, the amendment process ensured their continued involvement. You will see what I mean, by looking out the windows on the right side of the aircraft: here we see that The Bill Rights was added to the Constitution in 1791. In 1865 the 13th amendment abolished slavery and in 1868 the 14th amendment outlined the rights of all citizens. Meeting the changing needs of a growing country, however, had been known to cause slight turbulence in our return flight. Therefore, in the event that we experience any threat to ourselves and our posterity any one of the 27 amendments, will drop from the overhead compartments to ensure our domestic tranquility.

The amendment process is not the only way that we as citizens can participate in our government. What we have witnessed today should force us out of complacency and self-centeredness and put us in touch with a greater reality. Robert Kennedy made it popular, but George Bernard Shaw said it long ago: "Some people see things as they are and ask, 'Why?' I prefer to see things as they might be, and ask 'Why not?'" That is what the framers of our constitution had in mind so long ago. Our participation in that process in the 21st Century is essential to ensure that the Constitution continues to withstand the many and varied assaults from those who criticize it, misinterpret it, or challenge it.

We can begin participating in small ways such as reading a daily newspaper or weekly newsmagazine. Then, we will begin participating in bigger ways such as writing letters to public officials, investigating the qualifications of political candidates, and exercising our right to vote. So you see, even in little ways, we must take a more active role in our government—that, time travelers, is the real journey!

Our Founding Fathers, in the words of Justice Hugo Black, ". . . dreamed of a country where the mind and spirit of man would be free; where there would be no limits to inquiry; where men would be free to explore the unknown and to challenge the most deeply rooted beliefs and principles. . . ."

Today, on flight U.S. 1-7-8-7, we have traveled back in time to the formation of The Constitution of the United States. Our itinerary included a basic knowledge and understanding of the constitution; and appeal to engage in our rights responsibly; and finally, a call to participate in our government.

Here in the 21st Century, the flight crew tells me that we have been cleared for landing. We have people on hand waiting to assist you in your efforts to continue the good work of our Founding Fathers. Remember what you have experienced today is much more than a fantastic journey in to the past, it is a reminder of your responsibility for the future.

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#### HONORING SAM CAUDILL COMMUNITY CONTRIBUTIONS

##### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize a man that has made numerous contributions to his community as well as the United States as a whole. Mr. Sam Caudill served his country in the Office of Strategic Services (OSS) during World War II, and since has served the community of Aspen, Colorado as a leading architect and historian. For his life of service and adventure, I would now like to take this opportunity to honor him.

Sam started his illustrious career on a mission for the Office of Strategic Services to China in 1945 to teach guerilla warfare to Chinese soldiers so that they would be able to defend themselves if the Japanese attacked. Although Sam did not realize it at the time, this type of work was the beginning of what was to become the most extensive and complex intelligence network in the world—the

CIA. At the age of 21 Sam volunteered to be a mule packer for the American guerilla fighters. Already fighting the Japanese, he had no idea that he would be presented with the opportunity to help start a new wave of national defense.

Upon finishing his duty in the army, Sam returned to Cornell University to complete his education. After receiving his degree Sam returned to Colorado to make his mark on the skyline of Aspen. Following the lead of Frank Lloyd Wright, Sam has always strived to create buildings that grow out of the environment. Sam was awarded for his unique design of Aspen High School, which reflects the rolling hill surrounding the school with its rounded shape. He has been commissioned in numerous places throughout the state of Colorado. When people refer to Sam, he is often called "the dean of Aspen architecture."

Sam has also made a significant contribution to preserving wildlife in Colorado. He served on the Colorado Wildlife Commission from 1975 to 1983, and was chairman of the commission in 1978. During this time he has been credited with the law that allows Colorado citizens to apportion part of their tax return to the non-game and endangered species program. He also worked on the state's catch and release trout program. Sam still enjoys the outdoors and tries to hike and fish whenever possible.

An interest in local history has spurred Sam's latest contribution to society. For the last twelve years Sam has been interviewing "old timers" about their lives logging, mining and wrangling here in Colorado. Sam hopes to compile all these stories and photos he has gathered into a book titled, "Colorado—the Wild Years." His love for the old west and his reputation in the Aspen community suggests that Sam may have been born a century too late.

Mr. Speaker, like so many of us, Sam has fallen in love with the natural beauty of Colorado. He has spent his life trying to preserve that magical quality that the untamed mountains of Colorado exude. For this I and the citizens of Colorado are grateful.

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#### REMEMBERING HAROLD BERKE

##### HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 24, 2001

Mr. REYNOLDS. Mr. Speaker, I rise today in remembrance and to pay tribute to Harold Berke of Williamsville, New York.

While Harold Berke is no longer with us, we are blessed that his memory and his achievements live on to this day. Born Harold Berkowitz, he enlisted in the Army Air Corps prior to the start of World War II. Harold achieved the rank of Master Sergeant, and during his service to our nation, invented a device that allowed a single man to lift the tail sections of airplanes for repair and inspection.

Following his graduation from the University at Buffalo, which he attended under the GI Bill, Harold Berke went to work for Bell Aerospace, where, beginning in 1954, he led a group that provided a solution to an engine