

that Christianity in America has grown “weaker, weaker, weaker.”

In July, at the Republican National Convention, Trump managed to make eliminating the amendment a plank in the platform: “Republicans believe the federal government, specifically the IRS, is constitutionally prohibited from policing or censoring speech based on religious convictions or beliefs, and therefore we urge the repeal of the Johnson Amendment.”

Trump used valuable time in his acceptance speech to advocate against the amendment. Thanking the “evangelical community” for being “so good to me and so supportive,” Trump told them “our laws prevent you from speaking your minds from your own pulpits.” The Johnson amendment “threatens religious institutions with a loss of their tax-exempt status if they openly advocate their political views,” Trump said, vowing “to work very hard to repeal that language and protect free speech for all Americans.”

Come August, Trump was still pushing the issue. In Orlando, he spoke to 700 evangelical pastors and their spouses. Trump’s main message was about national decline and how the nation can be renewed—by repealing the Johnson amendment. “You’ve lost your voice,” he said. “We’re going to get it back.”

However implausible it may seem that the fate of Christianity depends on what is in the American tax code, Trump enters the fall having made repeal of an obscure tax provision a salient issue. No previous Republican party platform has called for repeal of the amendment.

During the primaries Trump attracted just enough evangelical voters to win the nomination—about a third of the total primary vote. Now polls show that his support among evangelicals has risen to 80 percent, par for the course for recent Republican presidential candidates. But that percentage has not always been enough to push GOP candidates over the top. Assuming he gets 80 percent of evangelical voters, Trump will need more evangelicals to turn out and vote than have done so in the past two presidential elections.

And if he is elected and undertakes to repeal the Johnson amendment, Trump would face a Congress that hasn’t shown much interest in reconsidering it. A few years ago, Sen. Charles Grassley led an effort to revise the amendment. It got bogged down in policy proposals and position papers by panels of legal experts and religious representatives. A Commission on Accountability and Policy for Religious Organizations, a group formed by the respected Evangelical Council on Financial Accountability, determined that notwithstanding what may seem to some groups a “troubling, limiting, frustrating, and even potentially unconstitutional” prohibition on

political and religious speech, the law “should not be repealed.”

That’s where things stood until Trump took up the issue. A President Trump could try to win the public and Congress over on the Johnson amendment. But if he is unable to turn Congress his way, he might be tempted to do what President Barack Obama has so often done to enact his policies—resort to an executive order or presidential memorandum. But surely the better course for Trump would be to negotiate and compromise to get what he could from Congress.

You could call it the Trump amendment; his name is on a lot of things, you know. ♦

## Collection Agency

The CFPB squeezes the ‘choke points.’

BY RONALD L. RUBIN

**T**he Consumer Financial Protection Bureau just celebrated its fifth anniversary by releasing an outline for new debt collection rules that will encourage consumers to avoid paying their debts.

Nobody likes the stereotypical debt collectors who threaten and harass consumers, but neither the CFPB nor its new rules offer much protection against these shady characters. The bureau’s reluctance to investigate sleazy, small-time debt collectors relegates tens of thousands of their victims to its Internet complaint database. Ironically, the CFPB uses the inflated complaint statistics it gathers there to justify new regulations aimed at big companies that buy delinquent debt portfolios.

In 2012, as a CFPB enforcement attorney, I was assigned to lead one of the bureau’s first two debt-collection investigations. The targets were chosen

only because they were the country’s largest debt buyers and collectors. The CFPB’s strategy was, and still is, to produce dramatic headlines by suing “choke points”—i.e., the leading firms in every consumer financial business.

The Dodd-Frank law that created the CFPB armed it with a Stalinesque administrative process that guaranteed these two unlucky firms would fork over tens of millions of dollars in fines. After three years of futile protests, both agreed to the same penalty the bureau charges almost all its investigation targets—the maximum they could afford to pay. CFPB enforcement attorneys demand detailed financial information from every target for the sole purpose of calculating that figure.

The investigations had an even more cynical objective. Both companies’ settlements required them to adopt expensive procedures that the CFPB wanted to impose on the entire industry. Thus, the two debt collection giants could be counted on to support inefficient regulations so as to level the playing field with their competitors.

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*Ronald L. Rubin was an enforcement attorney at the Consumer Financial Protection Bureau and chief adviser on regulatory policy at the House Financial Services Committee.*

The other attorney assigned to my investigation had spent many years representing debtors in collection lawsuits. He told me he had no regrets about exploiting legal loopholes to help his clients escape valid debt obligations, because they needed the money more than their creditors. The CFPB's likeminded leaders later promoted him to a senior policy position.

My friend's progressive sentiments may be defensible, but not his economics. In competitive industries, companies don't earn above- or below-average profits, or suffer losses, for long. Lenders ultimately pass increased default and operating expenses on to borrowers by charging higher interest rates. When some consumers dodge lawful debts, all consumers pay the price.

There are two types of debt collection problems. The first is classic bad behavior—using harassment, intimidation, and deception to collect valid debts. These tactics may increase collection rates and reduce litigation, but any benefits are offset by societal harm. Congress struck a balance in the 1977 Fair Debt Collection Practices Act, which outlawed the most abusive practices.

The FDCPA, which predates cell phones, text messages, and email, needs to be updated. However, CFPB director Richard Cordray's promise to "put consumers in control of their communications with collectors" goes much further. For example, one proposal to let debtors end all future telephone communications by asking any collector to stop calling is comically naïve. While technology has changed dramatically since 1977, human beings have not. Debtors still try to avoid collectors; unreasonable communication restrictions inevitably lead to unnecessary lawsuits and damaged credit reports.

The second type of problem—attempted collection of invalid debts—is more serious. Many credit card issuers, medical providers, and other businesses sell their customers' unpaid account balances to collectors. But the account data may be inaccurate. Debtors may have provided false information, moved, or died. Sometimes they made payments that

were not recorded. Debt buyers collect on some of the accounts, and in turn often resell the rest. With each resale, the accuracy and collectability of the portfolios decrease. The lowest quality debt collectors tend to buy the lowest quality debt.

Nobody should be charged, harassed, or sued for a debt they've already paid or for someone else's debt. However, the CFPB's proposed solution is a hopelessly complex system of debt validation requirements and procedures—with rounds of notices, statements, information requests, and document transfers between debtors, creditors, and debt collectors. The new rules will create so many loopholes that debtors with lawyers half as clever as my former colleague will never pay a dime, and may even get rich suing collectors.

The CFPB could prevent mistaken debt collection attempts far more effectively and efficiently by creating and maintaining a central debt registry, much like those that record deeds,

mortgages, and other real property interests. Before any sale to collection agencies, the original creditors would have to sufficiently validate and register debts. Each debt would have only one owner, and owners would have to update the registry to reflect any payments or resale of the debt.

By enabling easy debt verification, a registry would eliminate most mistaken collection attempts, spare judges hours of document review, reduce litigation costs, and facilitate criminal prosecution of those who engage in abusive attempts to collect invalid debts.

The CFPB won't consider the debt registry solution for two reasons. First, like the bureau's Internet complaint database, it would be a big project. The agency might have to repurpose the tens of millions of advertising dollars it spends promoting itself each year. Second, the registry would eliminate uncertainty and make it harder for consumers to avoid paying legitimate debts. Heaven forbid. ♦

## Smack Down

Treat drug addiction like the crisis it is.

BY DAVID MURRAY

**T**he first year of the Obama administration, 3,278 people in the United States died of heroin overdoses. By 2014 (the most recent year for which there are statistics), that number had more than tripled, with 10,574 heroin deaths. Add to heroin the abuse of narcotic painkillers (analgesics such as oxycodone) and the epidemic is staggering: Opioid overdoses killed 29,400 Americans in 2014. The body count continues to rise because President Barack Obama does not have a serious strategy to address the problem.

*David Murray is a senior fellow at the Hudson Institute and served in the Office of National Drug Control Policy under President George W. Bush.*

Treatment has been the administration's priority for dealing with drug abuse over the last seven years. The problem, we were told, was the lack of availability of treatment, a problem that was supposed to be solved by the Affordable Care Act. But it hasn't worked out. While traveling in New Mexico this month, the White House drug czar, Michael Botticelli, said that "across the country, I too often hear that people wait weeks or even months to get the [opioid] treatment they need."

Now the administration claims rising addiction and overdose deaths must be met with more federal funding for treatment—and that GOP hesitation to spend more money is

**THE CLINTON FAMILY  
FAVOR FACTORY**  
STEPHEN F. HAYES

the weekly

# Standard



## Safety Not Guaranteed

Yellowstone in the age  
of the helicopter parent

BY JONATHAN V. LAST

# Contents

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- 2 The Scrapbook *Put not your trust in princes, back to school, & more*  
5 Casual *Andrew Ferguson finds Narcissus at the museum*  
7 Editorials *Deal with the Devil • Up from Cartoonism • There Is No Fix*

## Articles

- 11 Aiding and Abedin BY STEPHEN F. HAYES  
*The Clinton family favor factory*  
13 Anti-Hillary Dems BY FRED BARNES  
*Why aren't there any?*  
14 Bullying the Pulpit BY TERRY EASTLAND  
*Do pastors want to play politics?*  
15 Collection Agency BY RONALD L. RUBIN  
*The CFPB squeezes the 'choke points'*  
16 Smack Down BY DAVID MURRAY  
*Treat drug addiction like the crisis it is*  
18 Mrs. Abe Goes to Pearl Harbor BY DENNIS P. HALPIN  
*A welcome gesture from an essential ally*  
20 The Brain Gain BY HRISHIKESH JOSHI  
*Making room for high-skilled immigrants*

## Feature

- 22 Safety Not Guaranteed BY JONATHAN V. LAST  
*Yellowstone in the age of the helicopter parent*

## Books & Arts

- 30 Lisztomania BY GEORGE B. STAUFFER  
*The composer's life at the expense of his music*  
33 In Strategic Retreat BY JORDAN CHANDLER HIRSCH  
*Rationalizing the world according to Barack Obama*  
35 Rome Is Burning BY SUSANNE KLINGENSTEIN  
*The words and music for a classical grand opera*  
36 Critic for Life BY EDWARD SHORT  
*What was Auden thinking when he wasn't writing poetry?*  
38 Are the Kids Alright? BY GRAHAM HILLARD  
*How the dread hand of government is spoiling childhood*  
39 Off-Road Vehicle BY JOHN PODHORETZ  
*A back-country crime picture in the great tradition*  
40 Parody *The dog ate Lochte's good excuse*

COVER BY DAVE CLEGG