

Ethan Allen Institute

Newsletter – May 2019 (Printer Edition)

Top Story

EAI Mourns the Loss of Founding Board Member John Mitchell

John M. Mitchell, one of the three founders of the Ethan Allen Institute, died in Rutland on March 28, 2019, aged 80.

John was born in Queens, New York, the son of an Army Lt. Colonel. He was graduated from Dartmouth in 1960, and earned his MBA degree there in 1961. He enlisted as a private in the 7th regiment New York National Guard, was graduated from the Infantry School at Ft. Benning as a 2nd Lieutenant, and was thereafter a company commander with his New York regiment.

Entering the business world, John worked at Ernst and Ernst, Sperry Rand and several other large businesses, and eventually became President of Vermont Marble Company and OMYA Industries. From its headquarters in Proctor, Vermont he managed OMYA's calcium carbonate operations all over North America. He retired to Rutland in 2006.

John was an active director of Associated Industries of Vermont and in 1993 was one of the three founders of the Ethan Allen Institute, of which he was a Director until 2009. He was a strong defender of liberty and free enterprise. In introducing guest speaker John Stossel at EAI's 15th anniversary celebration, he said "throughout our 15 years, the Ethan Allen Institute has worked tirelessly to defend the principles of a free society, and to puncture all sorts of costly and goofy liberal proposals that would undermine those principles, take and waste our tax dollars, and put a foolish government in charge of our lives, our hopes, and our futures."

Widely read, firmly principled, generous with his time and resources, and with a sharp sense of humor, John M. Mitchell was splendid company as well as an active leader during the Institute's first 16 years. There is probably no one that I will miss more than our friend and colleague, who gave so much to this good cause. – John McClaughry

Please Support EAI in 2019!

Freedom isn't free, and neither is fighting for it! We could not do what we do without the generous support of hundreds of people like you. If you have already made a contribution to our 2019 campaign, thank you! If you haven't yet, please do so today.

The Ethan Allen Institute is a 501c3 educational organization. All donations are tax deductible and anonymous.

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Commentary: From Heating Fuel Tax to Green Police State

By John McClaughry

The House-passed heating fuel tax bill (H.439) is now in the Senate Finance Committee, but the Senate Natural Resources and Energy Committee is busy crafting its own version (S.171). That version offers the same heating oil and propane tax increases approved by the House, doubling the rates to four cents per gallon. But it goes the House one better (or worse, depending if you're paying). The House bill raised the gross receipts tax on natural gas by a third, from .75% to 1.0%. The Senate bill would double that rate to 1.5%.

The House bill contained no urgent "findings". It just raised the tax rates that feed the weatherization program. The Senate bill leads off by declaring grandly that we need to impose more fuel taxes "to help our State meet its greenhouse gas reduction and weatherization goals, thereby addressing climate change."

The Senate bill recites Vermont's futility in attempting to reduce carbon dioxide emissions to 25% below a 1990 baseline by 2012, a goal set by a law passed in 2006. By 2015 we were emitting 16% above the baseline, and by now we're probably 20% above. Therefore we must act boldly to suppress carbon combustion!

A year ago the solution was the ESSEX Plan, to hammer Vermonters with a \$240 million a year carbon tax by 2026. Its backers believed that would drive people away from relying on carbon fuels for heating, transportation, and businesses.

The ESSEX Plan sank like a stone, so now there's a new strategy to reach the same goal. It's "carbon tax one percent a time", hatched by a shadowy group called the Regulatory Assistance Project. RAP's principals are former state employees who ran the Public Service Department and the Public Utility Commission.

Their mantra is "strategies to de-carbonize Vermont and address climate change." That means, if Vermonters won't accept a painful carbon tax, persuade the legislature to spend money on popular programs, and levy small and relatively painless taxes on carbon fuels to pay for the expansion.

The program that will consume the new fuel tax revenues, home weatherization, is a sound idea, when it yields energy savings greater than the expense of weatherizing. But with the additional \$4.6 million from raising the fuel taxes, the government programs can make this offer to 400 qualified homeowners: "We'll weatherize your house so you can save 150 to 230 gallons of heating oil each winter. That's \$600, year after year – and it all goes into your pocket, because all but maybe \$40 of it will be come from doubling the heating fuel taxes on somebody else! You can spend your \$560 on whatever you want!"

It's time that deal was modified to read "you'll pay us half of your savings so we can double the number of homes we can weatherize." Barring that modification, the increased fuel tax free-handout offer should be sent to the recycling box.

The Natural Resources and Energy Committee is also deliberating on a really radical bill called the Global Warming Solutions Act (S.173). This bill would require that Vermonters reduce their carbon dioxide emissions from electricity, transportation and buildings to 25% below the 1990 benchmark by 2025. And how would that fantastic result be made to happen?

The Secretary of Natural Resources would be directed to adopt and implement rules governing anything and everything to drive carbon dioxide emissions down below where they were 35 years ago. No legislator would vote on these rules.

And how would they be enforced? Not only the Attorney General, but "any person" would be authorized to bring a civil suit against a rule breaker, to get an injunction, punitive damages and costs and attorney's fees.

This heralds a Green Police State, enforced against anyone who uses any kind of fossil fuel above some bureaucratic allowance. It would be a permanent full employment plan for the battalion of bureaucrats needed to contrive, manage and enforce the rules, and a never-ending gold mine for the legal eagles at the Conservation Law Foundation, plus some climate warrior who doesn't like you.

A better plan? Recognize what Resources for the Future concluded in its \$120,000 study: there is no level of carbon taxation that will force Vermonters to meet the hopelessly unachievable CO2 emissions goals announced in 2006. Stop trying to sneak carbon taxes in one percent at a time. Make people receiving big weatherization savings pay at least half of the cost of the improvements that produce the savings.

And never for one minute entertain the idea of giving unelected bureaucrats the awesome power to control all our uses of carbon based fuels, just to show the world that Vermont is doing its (utterly undetectable) part to defeat the supposed menace of climate change. Or for any other reason.

- John McClaughry is vice president of the Ethan Allen Institute

Commentary: Our Seriously Unserious Legislature

By Rob Roper

Recently the Lake Champlain Chamber of Commerce [surveyed 500 young professionals](#), primarily Burlington area residents between the ages of 22 and 34, and learned that over 40% intend to leave Vermont. Why? The high cost of housing, the overall high cost of living, and the lack of upwardly mobile career paths. While the high number eyeing the exits may come as a shock, the reasons are not. We've known for a long time these are things that need fixing.

We also know that our roads are in poor shape, sewage keeps overflowing out of our waste treatment plants and into our rivers and lakes, our state pension liabilities are a financial time bomb, and the cost of pre-k-12 education keeps inexplicably rising despite the loss of 30,000 kids.

So, given this list of real challenges as we head into the final weeks of the 2019 legislative session, here's a rundown of some of the issues our elected officials are tackling:

Allowing non-citizens to vote in Montpelier. The House passed this charter change bill 94-46 allowing non-citizens the right to vote in local Montpelier elections despite the fact that the Vermont Constitution states explicitly that you have to be a U.S. citizen in order to vote. As of this writing the bill is under consideration the Senate.

Eliminating Columbus Day and replacing it with Indigenous People's Day. The Senate passed this on a voice vote and the House passed it 113 to 24. Nice for Native Americans; insulting to Italian Americans. But are any of us really going to spend our day off any differently?

Banning plastic grocery bags. The Senate passed this one 27-2 and, as of this writing, it is under consideration in the House. Not only does this bill ban plastic bags, it demands that store owners charge 10 cents per paper bag. These are really not decisions government is constitutionally empowered to make for us.

A constitutional amendment to end slavery. Yes, despite the fact that the 13th Amendment to the U.S. Constitution ended all slavery in 1865, and the Vermont Constitution was the first state constitution to ban slavery, the Senate voted 28-1 to start us on the four year path to amend the state Constitution, including a state-wide vote, in order change and/or accomplish exactly nothing.

Raise the smoking age to 21. This passed in the Senate on a voice vote and in the House 124-14. What's truly comical about this is that all session many of these same legislators have been touting the wisdom and praising the policy leadership of middle and high school students on issues such as climate change and gun control, but then rule young adults are too immature, ignorant, and foolish to make personal choices on their own.

Expand the "Pay to Move" Program. The original program to pay people up to \$10,000 to move to Vermont was so successful (29 workers moved here) the Senate voted 27-2 to expand the program. Why are we reduced to having to pay people to move to Vermont? Probably because of all the nonsense listed above.

In addition, there are serious negotiations about banning fossil fuel infrastructure in the state (essentially a move to ensure cheap, low carbon emitting natural gas is prohibited from competing with more expensive, less reliable renewable energy business/donor interests), which would deal a considerable blow to economic development. And, one can't forget the Vermont Global Warming Solutions Act (H.462), which would in effect usher in a "green" police state under which our government "shall [emphasis added] adopt and implement rules to achieve the 2025 greenhouse gas reduction requirement..., including addressing greenhouse gas emissions from the electricity sector, transportation sector, and building sector." "Shall" means you will be

forced to comply by whatever means necessary in order to accomplish approximately nothing in regard to climate change.

But isn't this just what Vermonters want and voted for? Well, as Rep. Mike Yantacka (D-Charlotte) explained, "If our constituents say 'don't do this,' we should be able to tell them we have to do it."

Maybe our state would be better off if, instead, we told our legislators to quit screwing around in their ideological sandbox and to focus their time and energy on actually operating the machinery of government. Fix the roads, fix the wastewater system, shore up the pensions, make sure our public schools are educating our kids effectively and at reasonable cost, and stop taxing and regulating productive people and businesses out of the state. And if they say they don't want to do this, we should be able to tell them they have to do it.

- Rob Roper is president of the Ethan Allen Institute.

Will Mandating a \$15/Hour Wage Benefit Vermont?

By John Goodrich

The legislature is working toward mandating a universal \$15/hour minimum wage. I have been in a position to see the real effects of such a step.

For many years I led a major St. Johnsbury manufacturing firm with as many as 300+ employees and as interim CEO at a St. Albans plant of 160 employees. Proudly, we paid attractive wages, plus benefits, to promote strong work forces at both sites. From my experience I can testify that the desired outcomes of a mandated minimum wage would be perversely harmful to those needing a job and a wage.

The business owners and entrepreneurs constantly must judge what pay rates will attract workers with potential, consistent with business risk and competitive sustainability. Those eager to impose an arbitrary \$15 minimum wage are not collectively qualified to apply such judgments to the many and varied businesses throughout our state. The backers of the \$15/hr minimum wage extol the benefit granted to those whose pay will be raised by the law and may sincerely believe they are doing low-skilled wage earners a favor by politically increasing their paychecks to above-market levels. All too often, though, backers ignore the question: what good and what harm will come of it?

If the bill passes, there will actually be two minimum wages: \$15/hr for those who the firm can afford to keep at the higher rate, and \$0 for those who lose their jobs or are never hired. Many will not receive the raise and no longer work at all because their job did not deliver \$15/hr worth of value to the business. The job is lost. Legislation advocates give little heed to the owner of a business or the entrepreneur who must make ends meet. Owners constantly consider the competition and the pricing of their products. An owner may elect not to hire someone at the mandated wage rate because it will cripple the business's position against their competitors outside Vermont, thus reducing profits essential for needed investment and growth. The added payroll cost, priced into the product, could render the business non-competitive and unsustainable.

My first job with a paycheck was in a grocery store in Littleton, NH at age 16, in the mid-1960s. It paid \$0.90/hr. I knew it was not yielding a fat paycheck. However, the

values that jobs like that taught teens like me were invaluable life lessons. We learned that conscientiously doing a job, acquiring more skills and experience, and climbing up the ladder would lead to increasing incomes. I would not trade a minute of those experiences that taught me habits and principles that favored me throughout my working life. If the New Hampshire minimum wage in those days had been say \$3.00, I almost surely would not have had the opportunity to profit so richly from those lessons.

Like me in the 1960s, today's teens are tomorrow's work force and business creators. In each competitive marketplace a company must make a profit to exist and survive. Those entry positions rarely provide value enough to justify \$15/hr. The digital age has transformed the workplace in many ways, but basic skills remain indispensable. Those skills include: literacy, showing up on time, ready to work; meeting the expectations of job performance; completing assignments cheerfully and on schedule; pitching in when the chips are down; welcoming and helping the customers who make the job possible; learning to give just a bit more than expected; and being loyal to the business. Akin to riding a bike, training wheels are first needed, and the skill to ride without those wheels takes time to develop. Entry level people must similarly acquire the experience, work habits, and results that make them more valuable to the company.

The legislation threatens to drive out of business the small shops and restaurants that cannot survive political manipulation of their costs. Their disappearance will destroy many entry level opportunities. A foundational building block of our nation is the liberty we have to pursue happiness. When the government imposes costly mandates like an artificial minimum wage, both the small business and people seeking jobs lose out. Politically mandated wages may benefit some employees, but the mandate harms many, especially the young recruits eager to prove themselves worthy of increased trust and opportunity. Perhaps some wage earners will advance to the \$15/hr level, but the price paid in lost opportunity for the "newbies" starting out will lead to a weaker, not stronger, economy and society.

- *John Goodrich is the retired Site Manager and CEO of two large Vermont plants. He lives in St. Johnsbury, and is a director of the Ethan Allen Institute.*

Events

Liberty Camp, 2019. We are getting an early start recruiting 6th to 8th graders for summer Liberty Camp this year. Our tentative places and dates so far are St. Albans, July 23-25. If you are interested, please email lkirker@myfairpoint.net for more information. *ONLY ONE SPACE LEFT! There will be a waiting list.*

To Schedule an EAI presentation in your community, please email rob@ethanallen.org.

Roll Calls

- [Senate Votes to Expand "Pay to Move" Program \(27-2\)](#)

- [Senate Advances Constitutional Amendment Guaranteeing Abortion from Conception to Birth \(28-2\)](#)
- [Senate Bans Plastic Bags, Styrofoam Food Containers, Straws \(27-3\)](#)
- [Senate Votes to Amend Vermont Constitution to Revise References to Slavery \(28-1\)](#)
- [House Votes to Raise Tobacco Use/Purchase Age from 18 to 21 \(124-14\)](#)
- [House Abolishes Columbus Day/Creates Indigenous Peoples' Day \(113-24\)](#)
- [House Allows Non-Citizen Voting in Montpelier \(95-46\)](#)
- [House Rejects Amendment Permitting Association Health Insurance \(50-87\)](#)
- [House Passes Health Insurance Mandate \(92-44\)](#)

News & Views

Over 40% of Vermont's Young Professionals Intend to Leave. A survey by the Lake Champlain Chamber of Commerce of 500 responses, primarily Burlington area residents between the ages of 22 and 34, revealed that over 40% intend to leave Vermont. Why? The high cost of housing, the overall high cost of living, and the lack of upwardly mobile career paths ([Source: BFP, 4/18/19](#)). Looking at who represents this region in the State House one can hazard a guess that the respondents to this survey are, by their votes, the architects of their own destruction.

Paid Family Left-Out. Douglas Farnham, Director of Policy and Tax Department Economist at the Vermont Department of Taxes testified that the Paid Family Leave bill overlooked the plight of those who don't have a high enough income to qualify for Paid Family Leave but would be forced to pay into program anyway. "We have a large number of low income Vermonters in Vermont. The data is a little bit difficult to get at, because we don't know their hours and their annual earnings." Vermont's [Comprehensive Annual Financial Report](#) (CAFR), states that there are 110,024 tax filers who report less than \$10,000 a year in income. This is 29.63% of all tax filers. In other words, about a third of all those who earn income in Vermont, and the poorest third at that, will be disqualified from participating the Paid Family Leave program while simultaneously being forced to fund it.

Reasoning Behind Government Run Pre-K Just Blew Up. The House and Senate Education Committees got a preview of a [report](#) from the Agency of Education on Vermont's Pre-Kindergarten program, the final version of which will be due in July. Two interesting bits popped out. One was that, "Research has found no or a limited relationship between educators' level of education and child outcomes." The other was, "Studies have found that private, center-based care has the strongest association with academic outcomes." This is HUGE! It demonstrates that the factors advocates say is necessary for "high quality" childcare aren't necessary at all. The argument has been that for pre-k programs to benefit kids they need better educated teachers and oversight/regulation by the public school system. NOPE!

Roper on the Fuel Tax Increase. "This tax will not 'benefit all.' If you're in one of the 400 houses it will help weatherize, you will benefit. And, if you get a job weatherizing some of those houses you will benefit. But if you're one of the other 620,000 or so

Vermonters, you just get stuck with a higher heating bill or a colder home." (VTDigger comment 4/3/19)

The Egg Sandwich Conundrum. Charles Martin, representing the 1500-member Vermont Chamber of Commerce, gave testimony about to how the \$15 minimum wage would will affect small, rural businesses using his own experience at his family's general store. He didn't buy the argument that "people will start spending more because they will be earning more." He noted that most of his family's customers came in once a morning to get a coffee and an egg sandwich. Even if those customers do end up with more money in their pockets after a wage boost, "People aren't going to start buying 5 coffees and 5 egg sandwiches on their way to work."

So Much for Representative Government. "If our constituents say 'don't do this' [pass a Carbon Tax], we should be able to tell them we have to do it." – Rep. Mike Yantachka (D-Charlotte)

Emissions and Nuclear Power. "Environmentalists promised that solar and wind would replace output from California's San Onofre Generating Station, which closed in 2013, and the Vermont Yankee Nuclear Plant, which shut down the following year. Instead, they were replaced mostly by natural gas, and emissions rose in both states. At the rate Vermont is building new wind farms, it would take 474 years to match the electricity generation it lost from closing Vermont Yankee." - James Hansen and Michael Shellenberger, (WSJ, 4/5/19)

When People Who Never Learn Control the Schools.... "The irony is that the same progressives who obsess over inequality and statistical disparities also fume at education reforms that have helped narrow learning gaps and thus led to better life outcomes for underprivileged groups in general. After New York City released admissions data last month for the city's most selective public high schools, where students are chosen based on a single, race-blind test, I reached out to the Success Academy Charter Schools network to find out how their middle-schoolers fared. It turns out that black and Hispanic students at Success Academy, which chooses students by lottery rather than academic ability, were admitted to the elite high schools at double the rate of their black and Hispanic peers citywide. I wasn't surprised. The same thing happened last year." - Jason L. Riley, (WSJ, 4/3/19)

That'll Learn 'Em. The Tennessee legislature is on the verge of passing a strong school choice bill. "When a Democratic opponent—from Memphis—objected to confining vouchers to four urban counties including his, a Republican replied that this was because these counties accounted for "99% of our failing schools in this state." ([WSJ, 04/25/19](#))

Expanding Agenda. [350.org](#) is the activist group founded by Middlebury College activist in residence Bill McKibben to demand bold action to defeat the Menace of Global Warming (now Climate Change). In April the group announced another student protest walk to demand action not only on "climate solutions", but also "the patriarchy, white supremacy, colonialism and capitalism." (Seven Days, 4/10/19) Anything to draw a bigger crowd.

Universal Health Care Again. The Guardian [London] reported, "Patients who are losing their sight are being forced to wait for months before having eye cataracts removed because of National Health Service cost-cutting. The NHS has imposed restrictions on patients' access to cataract surgery in more than half of England. . The Royal National Institute of Blind People condemned the rationing as shocking. It warned that not treating people with cloudy vision risks them falling and breaking bones, thus costing the NHS more." (Washington Times 4/10/19)

Invisible High Risk Pooling Works. "When healthy consumers in Alaska rebelled against skyrocketing premiums, the state set up a separate fund to pay the costs of seriously ill Alaskans out of general revenue, rather than hiding the cost inside the premiums healthy buyers pay. Premiums dropped 22 percent overall and 39 percent for Bronze plans. Now other states [including Maine] are experiencing similar success." - Betsy McCaughey, TAS 040319

Electric Shock. "For more than a decade, you, the American taxpayer, have been responsible for funding that windfall through a federal tax credit of up to \$7,500 for every luxury electric car sold in the country. Currently capped at 200,000 units per manufacturer, electric vehicle buyers were the beneficiaries of \$4.7 billion between 2011 and 2017; absent a repeal, the Joint Committee on Taxation (JCT) projects that figure to total \$7.5 billion between FY2018 and FY2022 alone.... In February 2018, a Pacific Research Institute study found that '79 percent of electric vehicle plug-in tax credits were claimed by households with adjusted gross incomes of greater than \$100,000 per year.'" ([Real Clear Energy, 4/4/19](#))

All You Need to Know About Socialism in One Quote. "Socialism doesn't work. It ruins finances and kills prosperity, but socialism does a whole lot more damage than that. It fails morally. It corrupts, dulls spirits, shrinks ambitions, narrows horizons, and fosters a malaise that prevents joy and creativity. It stops people from being free and fully human." Hugo Gurdon, editor of the Washington Examiner, who lived through the UK socialist collapse of 1978. (4/9/19)

Go Figure. Earth Day 2019 was celebrated on April 22, the anniversary of the birthday of V.I. Lenin. Make of this what you will.

Book of the Month

Law of the Hills

A Judicial History of Vermont

By Paul S. Gillies

Vermont Historical Society (2019)

Paul Gillies is probably the foremost legal historian of Vermont, at least in our day. In this new volume he traces the story of Vermont's judiciary through 243 years, the 134 men and women who have sat on the Supreme Court, and some of the cases that were important to the development of Vermont's present day law.

“Looking back at its history,” he writes in the Introduction, “the system has endured mobs, legislative intrusions, and abrupt changes in the constituency of the court.” He recites the story not from the bench, but from the point of view of a historian and practicing lawyer.

Of the early Justices, two were court martialed during the Revolution, one was a prisoner of war, one took Ticonderoga with Ethan Allen, one was a fifer at the Battle of Bennington, one dispersed Shay’s Rebellion, one was awarded the Medal of Honor for stopping Pickett’s Charge at Gettysburg. One judge, (Theophilus Harrington,) presiding barefoot on the bench in 1813, told a plaintiff that he would release an escaped slave back to Southern slavery if the plaintiff (the owner’s agent) could produce a bill of sale from God Almighty.

Gillies offers a lengthy smorgasbord of interesting cases. Lucy Prince, a former slave, successfully argued for the right to own her family land in Sunderland, in 1803. There was the sensational trial of the Black Snake smugglers in 1808. In 1814 the court for the first time struck down a piece of legislation – relating to introducing a deposition in an ongoing trial, as a violation of the constitutional separation of powers. The conviction of the Boorn brothers for murdering a coworker had to be vacated when the dead man showed up unannounced a month before the scheduled hanging. (The brothers had been convicted without evidence that the supposed victim was in fact dead.)

The Court wrestled for years over whether a person who did not believe in God and divine retribution could be allowed to give evidence. It wasn’t until 1971 that the legislature released its grip on the judiciary and let the Justices adopt rules of procedure in place of ancient and debatable common law practices. (I remember an instance in the House in 1970, where it was pointed out that a bill giving jurisdiction to the Court of Chancery was defective because “we just extinguished the court of chancery.”) The Judicial Crisis of 1983, where the seemingly terrified Justices barred the constitutional assistant judges from participating in legal decisions, gets its share of attention.

Gillies rightly devotes space to the line of cases (starting with *State vs. Ludlow Supermarkets*, 1982) where the Court seized upon “common benefit” to fashion its own equal protection rules – something that “would have given Thomas Jefferson apoplexy”, as the author remarked in his Jefferson Day talk last month. The most important of these cases was *Brigham v. State* (1997), that overturned the educational finance system. It could have used two more pages of description and analysis.

He also includes Frank Mahady as a Justice (1987-88), although the Senate never confirmed Gov. Kunin’s appointment and forced him to withdraw from serving on the Court. (How he got away with serving on the Court without Senate confirmation remains a mystery to me.) Gillies calls Mahady’s “disappointment” the result of a “political challenge”, without offering any of the numerous reasons that caused the Senate to refuse to confirm.

There is much more, both interesting history and description of the Court’s progress into its modern form and practice. Anyone interested in this important thread of Vermont’s history will find *The Law of the Hills* a gold mine.

- *Reviewed by John McClaughry, vice president of the Ethan Allen Institute*

The Final Word

May Survey: Non-Citizen Voting

Should the legislature allow non-citizens to vote in local Montpelier elections, setting a precedent for the rest of the state?

Yes.

No.

<https://www.surveymonkey.com/r/non-citizen-voting>

April Survey Results: Fuel Tax Increase

Should the legislature double the tax on the retail sale of heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business from \$0.02 to \$0.04 per gallon, and impose a gross receipts tax of 1.0 percent on the retail sale of natural gas in order to increase funding for the state's low-income weatherization program?

Yes. 3.02% (6)

No. 96.08% (193)