

# The Press & Dakotan

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**OPINION OTHER VIEWS**

## Emails Keep IRS Probe Afloat

**THE ORANGE COUNTY REGISTER (May 5):** John Koskinen has some 'splainin' to do. Last June, Koskinen, the IRS commissioner, told Senate Finance Committee Chairman Ron Wyden and ranking member Orrin Hatch that a computer malfunction somehow zapped thousands of emails to and from Lois Lerner, the scandalized IRS official whose office targeted conservative groups for special scrutiny when applying for tax-exempt status.

Last week, those potentially incriminating emails were recovered — not because Koskinen was determined to get to the bottom of the IRS targeting scandal, but because of the diligence of J. Russell George, Treasury Inspector General for Tax Administration.

George is in the process of turning over some 6,400 emails to the Senate Finance Committee, which last year tasked the inspector general's office with figuring out what emails had been lost, if someone at IRS intentionally destroyed them and if the emails could possibly be retrieved.

That seemed to us at the time a project Koskinen's staff could have undertaken. Instead, it appeared that Koskinen — and, perhaps, Obama administration officials further up the food chain — were hoping the scandal would just fade away.

We came to a similar conclusion April 1 when Ronald Machen, outgoing U.S. attorney for the District of Columbia, announced that the Justice Department had decided not to seek criminal contempt charges against Lerner after her refusal to answer questions during her appearance in March 2014 before the House Oversight and Government Reform Committee.

Lerner made an opening statement professing her innocence, which nullified her right not to testify, asserted Darrell Issa, the former House oversight committee chairman. However, Machen concluded that, while the former IRS official did, indeed, declare innocence, she did not waive her right not to answer questions from lawmakers "because she only made general claims of innocence."

The tortured defense of Lerner by Machen, who left the Justice Department the day after he let the central figure in the IRS targeting scandal off the hook, and the fecklessness of Koskinen in recovering the emails has the smell of a cover-up.

That's why we are pleased that George's office continues to investigate the IRS targeting scandal, including the possibility that crimes were committed.

**ABOUT THIS PAGE**

The View page provides a forum for open discussion of issues and interests affecting our readers. Initialed editorials represent the opinion of the writer, but not necessarily that of the **PRESS & DAKOTAN**. Bylined columns represent the view of the author. We welcome letters on current topics. Questions regarding the Views page should be directed to Kelly Hertz at [kelly.hertz@yankton.net](mailto:kelly.hertz@yankton.net).

**IN HISTORY****By The Associated Press**

Today is Thursday, May 7, the 127th day of 2015. There are 238 days left in the year.

**Today's Highlight in History:** On May 7, 1915, in an incident that sparked international outrage, a German U-boat torpedoed and sank the British liner RMS Lusitania off the southern coast of Ireland, killing 1,198 people, including 128 Americans, out of the nearly 2,000 on board.

**On this date:** In 1789, America's first inaugural ball was held in New York in honor of President George Washington, who'd taken the oath of office a week earlier.

In 1824, Beethoven's Symphony No. 9 in D minor, Op. 125, had its premiere in Vienna.

In 1928, the minimum voting age for British women was lowered from 30 to 21 — the same age as men.

In 1939, Germany and Italy announced a military and political alliance known as the Rome-Berlin Axis.

In 1942, U.S. Army Gen. Jonathan Wainwright went on a Manila radio station to announce the Allied surrender of the Philippines to Japanese forces during World War II.

In 1945, Germany signed an unconditional surrender at Allied headquarters in Rheims (rams), France, ending its role in World War II. The 1944 Pulitzer Prizes were awarded; winners included John Hersey for his novel "A Bell for Adano," Mary Chase for her play "Harvey," and Associated Press photographer Joe Rosenthal for his picture of the Iwo Jima flag-raising.

In 1954, the 55-day Battle of Dien Bien Phu in Vietnam ended with Vietnamese insurgents overrunning French forces.

In 1963, the United States launched the Telstar 2 communications satellite.

In 1975, President Gerald R. Ford formally declared an end to the "Vietnam era." In Ho Chi Minh City — formerly Saigon — the Viet Cong celebrated its takeover.

In 1984, a \$180 million out-of-court settlement was announced in the Agent Orange class-action suit brought by Vietnam veterans who charged they'd suffered injury from exposure to the defoliant.

In 1992, the latest addition to America's space shuttle fleet, Endeavour, went on its first flight. A 203-year-old proposed constitutional amendment barring Congress from giving itself a midterm pay raise received enough votes for ratification as Michigan became the 38th state to approve it.

In 1995, Jacques Chirac, the conservative mayor of Paris, won France's presidency in his third attempt, defeating

Lionel Jospin in a runoff to end 14 years of Socialist rule.

**Ten years ago:** During a visit to Riga, Latvia, President George W. Bush said the United States had played a role in Europe's painful division after World War II — a decision that Bush said helped cause "one of the greatest wrongs of history" when the Soviet Union imposed its harsh rule across Central and Eastern Europe. Giacomo, a 50-1 long shot, won the Kentucky Derby. Former congressman Peter W. Rodino Jr., who'd led the House impeachment investigation of President Richard Nixon, died in West Orange, New Jersey, at age 95.

**Five years ago:** A BP-chartered vessel lowered a 100-ton concrete-and-steel vault onto the ruptured Deepwater Horizon well in an unprecedented, and ultimately unsuccessful, attempt to stop most of the gushing crude fouling the sea. Before a record hockey crowd of 77,803, the United States lost to host Germany 2-1 in the opening game of the world ice hockey championships. Dave Fisher, lead singer of the 1960s folk group the Highwaymen, died in Rye, New Jersey, at age 69.

**One year ago:** Russian President Vladimir Putin softened his tone in a confrontation with the West, declaring that he had pulled his troops away from the Ukrainian border. The Nation's Report Card said America's high school seniors lacked critical math and reading skills for an increasingly competitive global economy. The International Olympic Committee awarded the exclusive U.S. broadcast rights to NBC for an additional six games in a record \$775 billion deal.

**Today's Birthdays:** Former Sen. Pete Domenici, R-N.M., is 83. Rhythm-and-blues singer Thelma Houston is 72. Actress Robin Strasser is 70. Singer-songwriter Bill Danoff is 69. Rock musician Bill Kreutzmann (Grateful Dead) is 69. Rock musician Prairie Prince is 65. Movie writer-director Amy Heckerling is 63. Actor Michael E. Knight is 56. Rock singer-musician Chris O'Connor (Primitive Radio Gods) is 50. Actress Traci Lords is 47. Singer Eagle-Eye Cherry is 44. Actor Breckin Meyer is 41. Rock musician Matt Helders (Arctic Monkeys) is 29. Actress-comedian Aidy Bryant is 28. Actor Taylor Abrahams is 24. Actor Alexander Ludwig is 23. Actress Dylan Gelula is 21.

**Thought for Today:** "Be a philosopher but, amid all your philosophy be still a man." — David Hume, Scottish philosopher (1711-1776).

**FROM THE BIBLE**

*The LORD was with Joseph and showed him steadfast love and gave him favor in the sight of the keeper of the prison. Genesis 39:21. Portals of Prayer, Concordia Publishing House, St. Louis.*

**LETTERS TO THE EDITOR****A Wise Decision**

**Peter D. Deming, Yankton**

The recent decision by the school board to add an arts position at the middle school was a positive step for the education of our children and for the community as a whole.

The arts touch every aspect of our lives, but are often overlooked because they are so omnipresent. If you have not attended a local theater production, musical event, dance recital, or been to see the exhibits at Yankton Area Arts, I encourage you to do so.

This community is Midwestern solid and practical, but it also has an impressive heart and soul, shown in the arts and talent on display in these places. Kurt Vonnegut once said, "I sometimes

wondered what the use of any of the arts was. The best thing I could come up with was what I call the canary in the coal mine theory of the arts. This theory says that artists are useful to society because they are so sensitive. They are super-sensitive. They keel over like canaries in poison coal mines long before more robust types realize that there is any danger whatsoever." In this regard I think the decision shows that Yankton is a healthy thriving community.

I wish to thank the school board, Dr. Kindle, Dr. Johnke, Mr. Dvoracek, Todd Carr and the Fine Arts Department, Kathleen West, Julie Amsberry and Yankton Area Arts, and all the members of the community and district that showed support for adding this position.

**Thomas E. Simmons**

## A Case Of Reversal

**BY THOMAS E. SIMMONS**

University of South Dakota

The separation of powers doctrine gives the legislature the power to enact laws, the executive the power to enforce laws and the courts the power to interpret laws. Only rarely will the courts invalidate a law, but if a statute conflicts with a constitutional provision, the statute must give way.

For the great majority of laws, the courts will only apply a "rational basis" constitutional review. The rational basis test essentially states that so long as the statute does not appear to the product of insanity, the courts will not overturn it. Whether the statute was a good idea, or an effective one, is beside the point. Only when a law classifies individuals in a certain way (based upon their race or religion, for example) will a heightened standard of review apply.

The courts long ago decided that classifications based on disability would receive the same rational basis review as classifications based on economic status or criminality.

In re: Guardianship of Helen Louise Durand, the Minnesota Supreme Court upheld the constitutionality of a state statute providing reduced protections for disinherited spouses with disabilities than those without.

Shortly after her husband's death, Helen Durand was placed under a guardianship. She was impaired and lacked the ability to understand the legal or financial implications of her husband's probate. When her guardian learned that she had been disinherited, a petition for an elective share was filed against the late husband's estate.

Every state (except Georgia) provides certain minimum protections for individuals who are disinherited by their spouse. The basic scheme in Minnesota permits a surviv-

**Point Of View**

## Welcome, Mr. President ...

**BY STATE SEN. BERNIE HUNHOFF**

D-District 18 (Yankton)

To President Barack Obama: Mr. President, welcome to South Dakota. You'll be landing Air Force One on Friday in the center of our great USA. The official geographic center is near Belle Fourche, a six-hour car drive straight west of where you'll speak in Watertown.

In between are farms and ranches, towns and small cities — all populated by mostly hard-working and decent people who don't expect much of the Washington whence you come.

Oh, we'll take what we can get when offered. We've seen enough hard times — droughts, floods, hail storms and tornadoes — to know that you don't bite anybody's hand. But we don't expect much. Most of us were raised with the belief that the next government check — like the next rain — might be the last for awhile, and we're OK with that.

We figure we'd have the same number of farmers and ranchers if Washington had never sent a nickel through an ag program. We farm because we farm. For the sake of pure patriotism, we'd host Ellsworth Air Force Base for the nation even if it didn't add a dime to the economy. Our Native American citizens would still call places like Pine Ridge and Standing Rock their home even if you tore up the treaties and never spent another dollar on the rez. And we would have probably allowed you (I say "you" because as president, you represent the government to us) to flood our middle section of the state by the four Missouri River dams even if we didn't get some fine walleye fishing in exchange.

As a state senator, I can promise you that we'd find a way to balance our state budget if we lost the 40 percent that comes from Washington. It wouldn't be easy, but we'd survive the same way we dig out of blizzards. One shovel after another. Our senior citizens appreciate Medicare and Social Security, but the cost of living is lower here so we'd probably even get by without those wonderful perks.

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Washington is a million miles away from our daily lives.

I wish you had a day or two to spend in South Dakota. You could take federal Highway 212 from Watertown and drive to Belle Fourche, past the most cussedly independent folks on our planet. Most of them don't belong to your political party, but you could stop in any small town or pull into any farm driveway and you'd be met with the biggest smiles you've ever enjoyed. As a Democrat, you'd love the giant concrete donkey at Tinkertown, just west of Watertown, and the immense fiberglass pheasant at Redfield.

As you cross the great Missouri, America's grandest river, you'll enter the Cheyenne River Indian Reservation, one of the places where our government sent the Lakota. It hasn't worked well from most viewpoints. Capitalism hasn't taken root. Health care is a disaster. Alcoholism is a problem. But it is Home to the Lakota, with a capital H. The reservation people face many challenges, but it wouldn't take you long to find very spiritual and determined people who are working to make things better for the next generation.

The Cheyenne also marks the gateway to true cowboy country. On down Highway 212, you'll want to stop for a hot beef sandwich and some conversation at the Faith Livestock Auction Barn. The salty ranchers of West River are everything Ronald Reagan dreamed of being.

South Dakotans neither love or hate the government you run. Likewise, most neither love or hate you. Oh, we have a few political nut cakes. But fewer than most places. Most South Dakotans are too busy with daily life to think a lot about Washington and all your problems.

But don't get me wrong. I welcome you to South Dakota. We all welcome you. We're always happy when folks come here and spend some money — just as we're happy when it rains.

*Thomas E. Simmons is an assistant professor at the University of South Dakota School of Law in Vermillion. Simmons' views are his own and not those of USD.*

**B. Hunhoff**