

A conversation with Judge Richard Posner, Part II

July 21, 2009
By Zach Carter



Judge Richard Posner

Richard Posner is one of the leading conservative legal and economic intellectuals of the past century, whose recent book, "A Failure of Capitalism: The Crisis of '08 and the Descent into Depression," is a robust critique of the deregulatory movement. Posner serves as judge on the U.S. Court of Appeals for the 7th Circuit, and his name was frequently circulated as a potential nominee for the Supreme Court under President George W. Bush. Part one of Judge Posner's two-part critique of President Barack

Obama's financial regulatory overhaul was recently published on Fin-Reg21.com, where Judge Posner is a regular contributor. SNL's Zach Carter recently spoke with him about the current economic situation. In Part I of the interview, Posner discusses ways to improve the financial regulatory landscape. In Part II, Posner considers broader public policy options to fight the economic downturn. What follows is an edited transcript of their conversation.

SNL Financial: In your book, you say we have to call the current economic downturn a depression. Is there anything the government can do outside the financial sector to speed recovery?

I don't understand why the president doesn't appoint some expediter. You have this \$787 billion stimulus plan, which is very important I think, and nothing's happening. The money is being spent in dribs and drabs. Why doesn't someone say you have to cut through this red tape and spend this money? It's ridiculous. If you live in Chicago anyway, you see the road system is terrible. The surfaces have potholes everywhere. Why can't they spend this money filling in potholes? The construction industry is always the hardest hit during these economic downturns because it's very easy to postpone construction projects. We have hundreds and hundreds of thousands of construction workers who are out of work, and we have a dilapidated road system. So you'd think what we'd be doing is hiring these people. It's not just road construction; we have public buildings that need to be painted and all kinds of other work. It's not even terribly important what they do, what is terribly important is getting people back to work, because when they're working, they're more optimistic, they have higher incomes and they spend money. It does a great deal for confidence.

Literally within months of his inauguration, Roosevelt had hired several million workers on public works projects — and of course, the labor pool was much smaller in 1933. Our government is much more constipated now than it was 75 years ago. But still, it seems

to me that if the administration made the stimulus the real focus of their efforts, I think that would make a real difference. Instead, the emphasis in the administration seems to have shifted to the health care business, which is long-term, controversial, expensive and so on, while the stimulus limps along.

I think that's very unfortunate, because we have this terrible unemployment and underemployment and wage cutting. You really want to stimulate employment, and having the government going out and financing projects is much more direct. You can give people tax credits, which the government is also doing — it's really the major part of the stimulus plan. That's fine, but people may decide to save that money rather than spend it, and you don't get any stimulation to employment. But if the government actually goes out and hires people to build and repair roads, paint schoolhouses, do whatever, then you're directly employing people. The emphasis on that has been insufficient.

Unemployment is at 9.5% now and seems certain to go over 10%. With a downturn that severe, how can \$787 billion be enough?

No, it isn't enough. It's really very small. Realistically, it's going to be spent over three years, so you're talking about \$250 billion a year. Of course that sounds like a lot, but you have a \$14 trillion gross domestic product, so \$250 billion is less than 2%. That isn't very impressive. There are limits on how much it can be, just because it does take time to gear up and expand output, but it is too small. Even so, I think if it were pressed more vigorously, it does have a confidence-building aspect. Even if you don't have a job, if you see someone else has been hired, it makes you feel a bit more optimistic about your own chances.

The 9.5% unemployment rate is really a serious underestimate. It doesn't include people who have stopped looking for jobs, it doesn't include people who are involuntarily working part-time, it doesn't include the furloughs and it doesn't include the wage reductions. The wage reductions are a real novelty. Even in the '30s, [for] people who retained their jobs, their pay wasn't cut.

My major criticism is that the government is trying to do too much at once. It should focus single-mindedly on recovery. Once that's under way and unemployment is falling, then they can move on to their longer-term agenda. They try to argue that their plans for health care are going to reduce the long-run costs of health care and that will help the economy in the long-run, but that's very speculative.

Well it seems like if you're unemployed and have no health insurance, that's worse than being unemployed and having health insurance. But what's wrong with raising taxes to pay for public services? Would higher taxes be a problem, given the scope of our current challenges?

That's really disturbing, because with health care, much of the discussion is based on notions that seem really unsound. The idea that preventive health care reduces aggregate costs, that isn't true at all. Preventive care means everybody. That means the healthy people

getting tests, screening and so on. Screening can be tremendously expensive, MRIs, CAT scans and so on. Just if everybody got an annual physical exam, that would cost a fortune. Similarly, it's a very good thing to digitize everyone's medical records. It makes it easier to switch doctors, switch specialists and so on, it's much more efficient. But it's not going to reduce costs, because it makes it easier for people to consult specialists and switch hospitals and so forth.

So either you accept that people are going to spend a lot of money on health care services, and therefore you have to have heavy taxes — which is fine I don't think that'd be a big problem for the country — or else you have to limit treatment, which is very difficult to do in the American culture. If you don't do either of those things and you have another 50 million people with health insurance, they're going to demand more services and it's going to be more expensive. We can finance that with inflation, or even heavier borrowing from foreigners, but we really can dig the country into a hole.

Do you see any good news coming out of this economic mess?

Well, the whole of government and the economics profession, they're all much more alert to the dangers posed by asset price inflation bubbles and risky financial transactions, and the need for higher levels of personal savings. So I think we've learned a lot. I hope the economics profession will take seriously its very severe failure to anticipate this problem and establish plans for dealing with it. I hope economists will really try to learn more about the intricacies of the modern financial economy.

There are a lot of improvements in public policy that are now possible. We've learned a lesson. In the Bush administration, the attitude was that markets are self-correcting and government intervention wasn't necessary, and now we know that's an exaggerated view. So some things, like the government's efforts to deal with climate change, are very important. They may not be very good efforts, but at least they're drawing attention to a very serious problem where you need government intervention. I would be perfectly happy to

see higher taxes in order to finance our government so we don't go broke. But Congress doesn't seem willing to do that.

The health care program could be financed through higher taxes and that would be fine. But because Congress doesn't want to raise taxes, the health care program is looming as a tremendous deficit-creator.

You seem to be offering tepid support for a lot of policies usually identified with the political left. How do you get along with your old intellectual peers in the conservative movement?

I'm sure they disagree with me a lot, but they've been shaken. There are libertarians and people very opposed to the stimulus. There are even people who don't believe there is such a thing as a recession or a depression. But they're all chastened, because they never dreamed that something like this could happen.

But they'll come back. There's always a left and a right. And if the administration goes overboard and ends up with really frightening deficits that lead to inflation, it could be like the '70s again. Even with today's Republican Party seeming so dilapidated and almost ludicrous, there's so much volatility in the American politics. I remember after the 1964 elections, Goldwater was crushed and Republican representation in Congress shrank enormously. People thought the Republican Party was dead. But four years later we had a Republican president. And then of course Nixon goes down in flames, and people go, "Oh, now the Republican Party is really dead." Then a few years later there's Reagan and people start saying the Democratic Party is dead, and now today the Republican Party is in a deep trough. But it will bounce back, especially if the administration overreaches. It's not necessarily a helpful thing for an administration to have lopsided majorities in Congress, because they can go too far, or Congress can squabble among themselves and squander everything, and then you get a resurgence of the opposition. *i*