

**George Will misleadingly promotes a libertarian argument that the  
Emergency Economic Stabilization Act of 2008 is an unconstitutional violation  
of the “nondelegation doctrine.”**

(["Might court say Congress can't give its power away?"](#) Mar. 29).

His selective quotation from a Jeffrey Rosen column ignores Rosen's conclusions that “[t]he libertarian arguments are doomed--and the libertarians know it” and “the fact that it's not unconstitutional.”

Will erroneously claims that “Since the New Deal era, few laws have been invalidated on the ground that they improperly delegated legislative powers.” In fact, the only time federal laws were ever invalidated on this ground was in 1935 by the political, anti-New Deal Supreme Court.

During more than seven decades since then, every federal challenge based on this judge-created doctrine has failed. Indeed, when a split D.C. Circuit panel used it against Clean Air Act safeguards, the Supreme Court reversed 9-0-in the 2001 *American Trucking* case.

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{Earthjustice represented American Lung Association in the *American Trucking* case}

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